

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PAUL PHELPS,

Plaintiff,

v.

MANUEL PEREZ, et al.,

Defendants.

Case No. 1:22-cv-01406-AWI-SAB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING
CERTAIN CLAIMS, AND REFERRING
MATTER BACK TO MAGISTRATE JUDGE
FOR FURTHER PROCEEDINGS

(ECF No. 9)

Plaintiff Paul Phelps is proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On November 8, the Court screened Plaintiff's complaint and found a cognizable excessive force claim against Defendants Townsend and Bettis in violation of the Fourteenth Amendment, a supervisory liability claim against Defendant Manuel Perez in violation of the Fourteenth Amendment, and a Monell liability claim against the County of Madera in violation of the Fourteenth Amendment. (ECF No. 5.) However, Plaintiff failed to state any other cognizable claims for relief. Plaintiff was informed that he could file an amended complaint or a notice of intent to proceed on the claims found to be cognizable. (Id.)

On November 17, 2022, Plaintiff notified the Court of his intent to proceed on the claims found to be cognizable. (ECF No. 7.)

On November 18, 2022, the assigned Magistrate Judge issued Findings and Recommendations recommending that this action proceed on Plaintiff's excessive force claim

1 against Defendants Townsend and Bettis, supervisory liability claim against Defendant Manuel
2 Perez in violation of the Fourteenth Amendment, and Monell liability claim against the County
3 of Madera in violation of the Fourteenth Amendment. (ECF No. 9.) The findings and
4 recommendations were served on Plaintiff and contained notice that any objections were to be
5 filed within fourteen days after service. (*Id.* at 2.) No objections were filed and the time to do so
6 has passed.

7 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted
8 a *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the
9 findings and recommendations to be supported by the record and by proper analysis.

10 Accordingly, IT IS HEREBY ORDERED as follows:

- 11 1. The findings and recommendations issued on November 18, 2022, (ECF No. 9),
12 are adopted in full;
- 13 2. This action proceed on Plaintiff's excessive force claim against Defendants
14 Townsend and Bettis in violation of the Fourteenth Amendment, supervisory liability
15 claim against Defendant Manuel Perez in violation of the Fourteenth Amendment,
16 and Monell liability claim against the County of Madera in violation of the
17 Fourteenth Amendment.
- 18 3. All other claims are dismissed from this action for failure to state claims upon
19 which relief may be granted; and
- 20 4. This action is referred back to the Magistrate Judge for proceedings consistent
21 with this order.

22 IT IS SO ORDERED.

23 Dated: March 28, 2023

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25 SENIOR DISTRICT JUDGE
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